

REMARKS

Reconsideration and withdrawal of the rejection of all the claims now in the application (i.e., claims 1-20 and 22-26) is respectfully requested in view of the foregoing amendments and the following remarks.

Initially, the Examiner rejected claim 22 as failing to comply with the written description requirement because claim 16 from which claim 22 depends recited that the sidewalls of the elongate opening were perpendicular to and intersecting the bone contacting surface. As pointed out by the Examiner, claim 22 related to a recess on the underside of the bone plate which would prevent the sidewalls from extending all the way to the bottom surface. Applicants have amended claim 16 to delete the requirement that the sidewalls intersect the bone contacting surface of the bone plate and therefore remove the inconsistency with claim 22.

The Examiner then went on to reject claims 5-8 and 20 because of various inconsistencies among the claims. Applicants have amended these claims to remove the inconsistencies. These claims have also been amended to overcome the prior art and now use differing terminology.

The Examiner rejected claims 1-15 and 26 as being anticipated by Haag et al. U.S. Patent No. 5,976,141. Applicants have amended the independent claims to require that the insert has a first and second portion with the first portion being continuous, i.e., solid. This is clearly shown in FIG. 12 of the application and distinguishes over the first portion of the Haag et al. insert which, as shown in FIGS. 1 and 7, contains slots 31, 331. In addition, claim 1 has been amended to require that a bottom surface of the load bearing element extend parallel or co-linear with the bone contacting surface of the load bearing element. Obviously, this is not the case in Haag et al. in which the surfaces are angled with respect to the

plate bone contacting surface. Claim 11 has been amended to require the resilient extension of the insert second portion to be planar and extend parallel to the planar sidewall of the aperture, which extension includes a projection for engaging the bottom bone plate surface. The planar walls of the aperture extend perpendicularly to the bone contacting surface which distinguishes from Haag et al. where the aperture side walls extend at an angle to that surface. In addition, claim 11 now requires a projection for engaging the bottom surface which projection extends from a planar resilient extension extending parallel to the planar walls of the aperture.

Independent claim 16 has been amended to require the sidewalls of the aperture to be planar and extend perpendicular to the bone contacting surface and, likewise, the second portion of the insert including two sidewalls that are generally complementary to the two sidewalls of the internal surfaces and thus would also extend perpendicular to the bone contacting surface. The insert sidewalls include a projection which extends along a bottom surface co-linear or parallel to the bone contacting surface of the load bearing element.

Independent claim 26 has been amended to require the opening to have a planar sidewall and the insert has sections for engaging the sidewalls of the opening both of which extend parallel to the central axis of the opening. The projection is on a deflectable section and extends along a bottom surface of the load bearing element.

Thus, the claims now distinguish over Haag et al. in that they require the first upper portion of the insert to be continuous or solid with the second portion including sidewalls that are complementary to two planar sidewalls of the opening in the bone plate which extend perpendicular to the bone contacting surface. Haag et al. has no such planar sidewalls.

The Examiner then rejected claims 16-25 as being anticipated by Klaue et al. U.S. Patent No. 5,810,823. Applicants have amended claim 16 to require that the insert second portion sidewalls are inwardly deflectable which does not appear to be the case of the lock washer sidewalls near number 122 of FIG. 4 of Klaue et al. Furthermore, in amended independent claim 16, Applicants have claimed a projection which extends along a bottom plate surface which is clearly not shown on the sidewalls of FIG. 4 of Klaue. Claims 16 requires the projection extends along a surface parallel or co-linear with the bone contacting surface which is not taught by Klaue et al. Thus independent claim 16 is not anticipated by Klaue et al.

The Examiner then rejected claims 16-23 and 25 as being anticipated by Richelsoph U.S. Patent No. 6,171,311. Applicants have amended claim 16 to require that the insert has planar sidewalls and has an inwardly deflectable sidewall including a projection. Clearly, the insert 54 of Richelsoph is circular and thus has no planar surfaces. Insert 54 has no protrusion and is not deflectable in any manner. The sidewalls of insert part 16 are conically tapered and thus do not extend in a plane perpendicular to the bone contacting surface. Furthermore, Applicants' insert is now claimed as one-piece which is not the case in Richelsoph in which elements 54 and 16 are required to grip the plate. In addition, the projection extends along a bottom surface which is parallel or co-linear with the bone contacting surface.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he/she telephone Applicants'

attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

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Respectfully submitted,

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